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FILED
JANUARY 3, 2007
**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
OAL Docket No. BDSME 07015-2006N

IN THE MATTER OF THE SUSPENSION : ADMINISTRATIVE ACTION
OR REVOCATION OF LICENSE OF
ULISES C. SABATO, M.D.
LICENSE NO. MA04273800
TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

FINAL ORDER

This matter was presented to the State Board of Medical Examiners by the Attorney General of New Jersey (Joan D. Gelber and David M. Puteska, Deputy Attorneys General) by way of a nine-count Administrative Complaint filed February 28, 2006. Count IV of the Complaint was later withdrawn and replaced, by consent of the parties. An Amended Complaint was filed August 22, 2006, and a Second Amended Complaint was filed November 14, 2006. The conduct, as set forth in detail in the several Complaints, alleged violations of the cited administrative rules and of N.J.S.A. 45:1-21(b), (c), (d), (e) and (h), and of N.J.S.A. 45:9-6.

Respondent has maintained primary offices at 97 Engle Street, Englewood, NJ 07631 under the name "Neurology and Pain Management Associates" and at multiple other sites under other names. Respondent is represented by Keith J. Roberts, Esq. Respondent filed an Answer on May 8, 2006 with supporting expert reports annexed. Respondent was informed that the Attorney General

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had multiple expert reports supporting the allegations of its consolidated Complaints. The contested case was transmitted to the Office of Administrative Law for hearing.

Respondent, having consulted with his attorney, has determined not to proceed to a plenary hearing in this matter, but rather seeks complete resolution of this action by a settlement embodied in this Final Order. In the interests of amicable settlement, Complainant Attorney General and Respondent Dr. Sabato have agreed to the following resolution of the matter.

Respondent hereby pleads no contest to all of the allegations of the Second Amended Complaint.

In light of the circumstances herein, the Board has not conducted a plenary hearing but, having given careful and diligent consideration to the matter, the Board finds that the entry of this Order will adequately protect the public interest. For good cause shown,

IT IS, ON THIS 13th DAY OF December 2006

ORDERED:

1. Respondent's license shall be suspended for five (5) years, the first year of which shall be an active suspension followed by probation. No credit for the suspension period shall be given for any period of time during which Respondent engages in medical practice in any jurisdiction or state. The period of active suspension shall commence on January 1, 2007.
2. In the interim before active suspension, respondent shall accept no new patients. Respondent shall make immediate arrangements for the orderly transfer of current patients. He shall promptly notify all patients treated within the last six months regarding the availability for release or transfer of patient records pursuant to N.J.A.C. 13:35-6.5(g), and shall post newspaper and other notice as required by that rule.
3. Respondent shall surrender his federal Drug Enforcement Administration registration and his State Controlled Drug Registration for the State of New Jersey for the duration of the suspension period, and shall make prompt arrangements with said agencies for the lawful disposal of all Controlled Drugs in his possession or under his control, and shall arrange for the lawful disposal of all non-CDS medications.

4. Respondent shall assure that all New Jersey office letterhead and all prescriptions pads bearing his name are destroyed. He shall make safe and appropriate disposition of all medical equipment. However, Respondent shall be permitted to retain possession of his EMG/NCV equipment - not for medical use during the period of active suspension but solely for the purpose of referral/retrieval of prior data. Acquisition or repossession of medical equipment, appropriate to the nature of practice on reinstatement, may be discussed with the Board Committee prior to the start of the probation period, as addressed below.

5. Respondent is assessed an aggregate civil penalty of \$100,000.00 for the offenses set forth in the Complaint, as twice amended, pursuant to N.J.S.A. 45:1-25. Respondent shall reimburse investigative costs and fees totaling \$50,000.00, pursuant to N.J.S.A. 45:1-25(d).

6. All costs and penalties totaling \$150,000.00 shall be paid to the Board office at P.O. Box 183, Trenton, NJ 08625-0183, and in the manner as agreed below.

7. For any payments ordered in paragraphs 5 and 6 above, which have not been paid in full within ten (10) days of the entry of this Order, a Certificate of Debt shall be filed pursuant to N.J.S.A. 45:1-24. Respondent has requested, and the Board has agreed to permit, payment to be made in installments. Respondent shall pay the initial sum of \$15,000.00 within ten (10) days of the entry of this Order and shall be permitted to pay the balance of the debt regarding fees and costs in eighteen (18) equal monthly installments of \$7,500.00, with the first payment of that installment arrangement due on February 1, 2007 and each subsequent payment due on the first day of each month thereafter. The penalty shall be paid on the first day of the following month, and Respondent may request continuation of the installment arrangement for sufficient cause shown. Interest on all financial assessments shall accrue in accordance with Rule of Court 4:42-11. All payments shall be made by certified check or money order payable to the State of New Jersey. In the event that a monthly payment is not received within ten (10) days of its due date, the entire balance of the civil penalty and costs shall become due and owing.

8. The entry of this Order shall not limit the authority of the Attorney General or of any other person or agency to initiate any further action permitted by law, whether administrative, civil or criminal, in any court or other forum of competent jurisdiction in connection with any matters coming within that jurisdiction.

9. It is intended by the parties and the Board that this Order shall resolve all administrative and license issues with Respondent, which were specifically alleged as violations by the Attorney General in the present Administrative Complaint as twice amended, with regard to Respondent's responsibility to the State Board of Medical Examiners, all and solely in connection with Professional Board statutes and regulations.

10. Prior to the end of the active suspension period and before resuming any form of medical practice on probation, Respondent shall submit to the Board proof of the following:

- (a) In accordance with a standard practice of the Board for settlement of administrative actions, Respondent shall take and receive an unconditional passing grade in Board-approved courses in medical record keeping, billing and coding. Upon resumption of practice, a follow-up session shall be completed in each course, at three and six months thereafter, with evaluation by the course sponsors of five randomly selected redacted patient records for each course; a written report shall be submitted to the Board after each follow-up course, providing further educational guidance, if needed.
- (b) In accordance with a standard practice of the Board for settlement of administrative actions, Respondent shall take and satisfactorily complete a course in professional ethics approved in advance by the Board, receiving an "unconditional pass" grade. A list of some approved courses is available from the Board office.
- (c) Respondent agrees to take and complete an evaluation in interventional pain management techniques, which shall include proper surgical technique and management of potential complications for such procedures as Respondent desires to perform. The evaluation shall be conducted by a Board-approved program deemed by the Board to be equivalent in scope and rigor to the program sponsored by the Center for Personalized Education for Physicians. The program shall advise of the adequacy of respondent's didactic competency in a written report reviewed by the Board of Medical Examiners.
- (d) The evaluation program referenced in (c) above shall include a clinical portion whereby an American Board of Medical Specialists (ABMS)-approved neurologist or physiatrist, as applicable, shall observe Respondent's practical skills in

interventional pain management and electrodiagnostic procedures, and in office-based administration of trigger point injections without anesthesia or sedation, either in simulations or on live patients; the evaluator shall submit a written report to the Board, making any remedial recommendations deemed necessary for safe and competent practice.

- (e) If the evaluation program advises that remedial work or assistance by a preceptor or monitor is needed during the probation period for services which may include electrodiagnostic testing, Respondent shall cooperate with and comply with such remedial program; the Board-approved preceptor/monitor shall submit quarterly reports to the Board until adequate competency has been deemed achieved.
- (f) Respondent agrees to take and complete a Category I CME live-attendance course approved by the Board, totaling at least 24 hours in pre-anesthesia evaluation, intraoperative monitoring and post-operative anesthesia care (which may focus on outpatient surgery). A confirmation of adequate competency shall be submitted by the program to the Board of Medical Examiners. If the program advises that remedial work or assistance by a preceptor or monitor is needed during probation, Respondent shall cooperate with and comply with such remedial program, and the Medical Board-approved preceptor/monitor, who shall hold certification by a board accredited by the American Board of Medical Specialists (ABMS), shall submit quarterly reports to the Board of Medical Examiners until adequate competency has been deemed achieved.
- (g) The Medical Board-approved preceptor/monitor, for each form of practice deemed to need remedial training, shall be certified in the specialty being supervised by an ABMS board. The preceptor/monitor shall not be a friend or relative or anyone with whom respondent has or had a financial relationship of any kind. The cost of the preceptor/monitor's services shall be borne by respondent and shall not be passed on to patients/third party payors. Respondent shall promptly submit to the Board, with a copy to the prosecuting Deputy Attorney General, a curriculum vitae of the proposed preceptor, along with a signed agreement of the candidate acknowledging

the responsibilities incumbent upon the preceptor as set forth herein and agreeing to accept same, and submitting a proposed plan of preceptorship. Approval of the preceptor/monitor is at the sole discretion of the Board, and shall not be unreasonably withheld.

- (h) Respondent shall authorize the preceptor/monitor to make immediate report to the Board regarding work (whether documented or not documented by Respondent) which, in the opinion of the preceptor, fails to meet accepted standards of practice, and also of any individual matter which is believed to present an imminent peril to the patient or to the public health, safety or welfare.

11. Respondent shall provide appropriate releases to any and all persons who are participating in the supervision program as outlined herein as may be required in order that all reports, records and other pertinent information shall be provided to the Board in a timely manner. Respondent agrees that none of the persons proposed and/or approved as course evaluator, or preceptor/monitor shall have or incur any liability to Respondent as a result of their good faith performance of their services.

12. Respondent agrees to notify the Board within ten (10) business days in the event he obtains hereafter an ownership interest in an ambulatory surgery facility, whether licensed by the State Department of Health and Senior Services, or exempt from such licensure.

13. Prior to commencement of the probation period detailed in paragraph 1, Respondent shall deliver the abovesaid proofs of evaluation and remedial education and shall request appointment to meet with a Board Committee to discuss his status. Upon receipt of said proofs and the abovesaid representations of adequate safety and competence from the several programs, the Board shall reinstate Respondent's license to practice, subject to such limitations as to type and location of practice, review, preceptorship/monitoring requirements as it may reasonably determine based upon recommendations of the evaluation programs for further remedial education, if any.

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14. The Disciplinary Directives attached hereto are incorporated in this document.

THIS ORDER, CONSISTING OF A TOTAL OF ELEVEN (11) PAGES,
IS EFFECTIVE UPON ENTRY.

STATE BOARD OF MEDICAL EXAMINERS

Sindy M. Paul, MD, MPH

By: _____
Sindy Paul, M.D., M.P.H., President

ACKNOWLEDGMENT:

I have read and I understand
the above Order and I agree
to abide by its terms.

[Signature]
Ulises C. Sabato, M.D.

Witnessed: *[Signature]*

[Signature]
Keith J. Roberts, Esq. *ATTORNEY-in-fact*
Counsel to Dr. Sabato